

**REMARKS**

Claims 1-7, 9-10, 12-25, and 33 are pending, with claims 1 and 33 being independent. Claims 8, 11, and 26-32 have been previously cancelled, and claims 1, 17, and 33 have been amended.<sup>1</sup> Applicants respectfully request reconsideration in light of these amendments and the following remarks.

**35 U.S.C. § 102(b) Neumaier Rejection**

Claims 1, 2, 5, and 9 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Neumaier (U.S. Patent No. 4,830,549). For at least the following reasons, Applicants respectfully request withdrawal of this rejection.

Independent claim 1 is not anticipated because Neumaier fails to describe all of the features of claim 1. In particular, Neumaier fails to describe at least “an elongated locking element pivotably mounted at a pivot point on an exterior surface of the main body,” as recited in claim 1. Page 2 of the Office Action equates the pivotal levers 25, 26 and tool holder 1 of Neumaier to the claimed locking element and tubular main body, respectively. However, even accepting for the sake of argument the asserted correspondence between Neumaier and the claimed features, Neumaier fails to describe the pivotal levers 25, 26 being “pivotally mounted at a pivot point on an exterior surface of” the tool holder 1. To the contrary, Neumaier describes the pivotal levers 25, 26 as being pivotally mounted to spring ring 29, which is mounted to an actuating sleeve 17, not on an exterior surface of the tool holder 1. Moreover, the Office Action glosses over this feature of claim 1 by instead stating that pivotal levers 25, 26 are “movably mounted with respect to the main body 1.” Thus, Neumaier fails to describe at least “an elongated locking element pivotably mounted at a pivot point on an exterior surface of the main body,” as recited in claim 1.

For at least the foregoing reasons, claim 1, and its dependent claims 2, 5, and 9, are not anticipated by Neumaier.

---

<sup>1</sup> Claim 17 has been amended solely to correct a grammatical error.

**35 U.S.C. § 102(b) Lauterwald Rejection**

Claims 1-4, 6, 7, 9, 10, 12-15, 17, 18, 20-25, and 33 have been rejected under 35 U.S.C. § 102(b) as anticipated by Lauterwald (U.S. Patent No. 5,601,388). For at least the following reasons, Applicants respectfully request withdrawal of this rejection.

Lauterwald fails to describe all of the features of claims 1 and 33 under either of the two alternative interpretations of Lauterwald set forth in the Office Action. Under the first interpretation, pages 3-4 of the Office Action assert that the sleeve body 20, the combination of the locking body 50 and dust protection cap 60, and the rear end portion 62 of the dust protection cap 60 of Lauterwald correspond to the claimed tubular main body, elongated locking element, and engaging portion, respectively.<sup>2</sup> The Office Action contends that the claimed engaging portion is located forward of the claimed pivot point, as shown in the annotated FIG. 3 below:

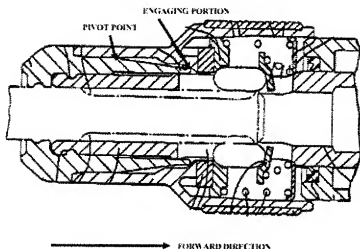


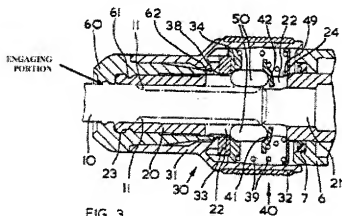
FIG. 3

However, claims 1 and 33, as amended, define the forward direction and the location of the engaging portion opposite to that shown in annotated FIG. 3 above. In particular, claims 1 and 33 recite “a tubular main body for receiving the tool, the tubular main body defining a forward direction extending toward a forward end where the tool is

<sup>2</sup> The Office Action, at footnote 1, also posits a definition for the claimed “retaining collar.” Applicant does not necessarily agree that the retaining collar is limited to this definition, or that the ring segments 41 correspond to the claimed retaining collar.

inserted into or removed from the main body” and “an elongated locking element pivotably mounted at a pivot point on an exterior surface of the main body, the locking element including a forward portion including an engaging portion located forward of the pivot point between the pivot point and the forward end of the main body.” In contrast, annotated FIG. 3 above shows the forward direction extending away from the forward end where the tool is inserted and removed and the engaging portion being rearward of the pivot point. Thus, even accepting for the sake of argument the asserted correspondence between Lauterwald and the claimed features, Lauterwald fails to describe the orientation of the engaging portion relative to the pivot point as recited in claims 1 and 33.

Under the second interpretation, page 7 of the Office Action asserts that the claimed engaging portion is located on the front of the dust protection cap 60 forward of a pivot point, as shown in the annotated FIG. 3 below:



However, Lauterwald contains no teaching that this portion of the dust protection cap 60 is “pivotably moveable between a radially inner locked position, in which the engaging portion is engageable with the retaining collar of the tool, and a radially outer unlocked position, which enables a tool to be inserted into or removed from the main body,” as recited in claims 1 and 33. Indeed, Lauterwald contains no description whatsoever of this portion of the dust protection cap 60. Moreover, the only elements of Lauterwald that even arguably correspond to the claimed engaging portion are the locking bodies 50, which are not positioned forward of the pivot point. Thus, the second

interpretation of Lauterwald fails to support a correspondence between Lauterwald and the features of the engaging portion that are recited in claims 1 and 33.

For at least the foregoing reasons, under either interpretation of Lauterwald, independent claims 1 and 33, and dependent claims 2-4, 6, 7, 9, 10, 12-15, 17, 18, 20-25, are not anticipated by Lauterwald.

### **35 U.S.C. § 103(a) Lauterwald/Gustafson Rejection**

Claims 16 and 19, which depend from claim 1, have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lauterwald (U.S. Patent No. 5,601,388) in view of Gustafson (U.S. Patent No. 1,800,345). For at least the following reasons, Applicants respectfully request withdrawal of this rejection.

Gustafson fails to cure the deficiencies of Lauterwald with respect to independent claim 1, as discussed above. In particular, under the first interpretation of Lauterwald, Gustafson fails to describe or suggest at least “a tubular main body for receiving the tool, the tubular main body defining a forward direction extending toward a forward end where the tool is inserted into or removed from the main body” and “an elongated locking element pivotably mounted at a pivot point on an exterior surface of the main body, the locking element including a forward portion including an engaging portion located forward of the pivot point between the pivot point and the forward end of the main body.” Under the second interpretation of Lauterwald, Gustafson fails to describe or suggest at least an “engaging portion pivotably moveable between a radially inner locked position, in which the engaging portion is engageable with the retaining collar of the tool, and a radially outer unlocked position, which enables a tool to be inserted into or removed from the main body.” Accordingly, claims 16 and 19 are patentable over Lauterwald and Gustafson.

### **Conclusion**

Applicants do not acquiesce to the characterizations of the art. For brevity and to advance prosecution, however, Applicants have not addressed all characterizations of the art, but reserve the right to do so in further prosecution of this or a subsequent application.

Applicant : Norbert Hahn  
Serial No. : 10/688,261  
Filed : October 17, 2003  
Page : 12 of 12

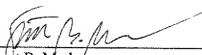
Attorney Docket No. P-US-PR-1088

Enclosed is authorization to charge \$490.00 to deposit account 02-2548 for a petition for a two-month extension of time. Please apply any other charges or credits to deposit account **02-2548**.

Respectfully submitted,

Date:

Nov. 12, 2008

  
\_\_\_\_\_  
Scott B. Markow  
Reg. No. 46,899

Black & Decker  
701 E. Joppa Road – TW199  
Towson, MD 21286  
Telephone No.: (410) 716-3606  
Facsimile No.: (410) 716-2610